

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

Sandra Landwehr, on behalf of herself
and all others similarly situated,

Plaintiff,

v.

AOL Inc.,

Defendant.

Case No: 1:11-cv-01014 (CMH/TRJ)

DECLARATION OF MANUEL J. DOMINGUEZ

1. I am a partner in the law firm of Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein” or the “Firm”). Benjamin D. Brown, another partner at the firm, previously submitted a declaration in support of Plaintiff Sandra Landwehr’s Motion for Attorneys’ Fees and Expenses. (Dkt. No. 110.)

2. Attached as Exhibit A is a detailed listing of the work performed by Cohen Milstein in seeking reimbursement for its fees and expenses in 2013. The exhibit provides (a) the date of the work performed, (b) identification of the attorney or paralegal performing the work, (c) a description of the work performed, and (d) the time spent on the work. Also attached is Exhibit B, which delineates the costs incurred by the firm related to its petition for fees.

3. The hourly rates requested by Cohen Milstein in this matter were calculated by using rates set by the firm for the 2012 calendar year. These rates were set out in Paragraph 12 of Mr. Brown’s previous Declaration. Although Cohen Milstein increased its fees at the beginning of 2013, we are seeking reimbursement according to our 2012 rates in recognition of

the fact that the Court has considered the remainder of our fees at our 2012 rates. We continue to believe that our regular hourly rates are entirely reasonable in light of the prevailing rate for comparable work in the Eastern District of Virginia, however we are reducing our hourly rate by 10% in light of the Court's earlier ruling,

4. Additionally, we are voluntarily excluding a number of hours from our fee petition in an exercise of billing discretion. The reductions are being taken based on the following:

a. *Reduction for Non-Essential Staff.* For example, as explained in Paragraph 12(b) of Mr. Brown's previous Declaration, we are excluding work performed by paralegals other than Ariel Wentworth, the core paralegal in this matter.

b. *Reduction for Inefficient or Duplicative Time.* Reviewing our reported time, I observed work that I believe could have been performed more efficiently or that was otherwise duplicative.

c. *Reduction for Time Spent Assisting Class Members.* Time spent responding to calls from class members and similar tasks has been excluded from the fees for which reimbursement is sought.

d.. *Reduction for Miscellaneous Time.* Cohen Milstein has also performed various miscellaneous tasks in 2013, such as moving to amend the Preliminary Approval Order, coordinating with the notice and claims administrator, and the like. However, to simplify this supplemental petition, Settlement Class Counsel are limiting this petition to fees and expenses incurred in applying for fees in this case.

5. Cohen Milstein has also incurred a small amount of costs and expenses on behalf of Ms. Landwehr and the Class in 2013. Cohen Milstein has paid these expenses and is

also seeking reimbursement for these costs. As with fees, Plaintiff and Settlement Class Counsel are limiting their request for reimbursement to those costs and expenses incurred in applying for fees, for simplicity's sake. A list of all costs and expenses that were paid by Cohen Milstein in prosecuting this matter are contained in Exhibit B. Total expenses listed in Exhibit B and for which reimbursement is being sought is \$12,183.69.

6. As explained in Mr. Brown's original Declaration, the expert opinion of Philip Harvey, and our initial and reply memoranda, Plaintiff and Cohen Milstein believe that the work they have performed was performed skillfully and efficiently, at rates that are within the prevailing rates in the Eastern District of Virginia for comparable litigation. To avoid repetition and because the Court has already considered these issues, I will rely on our previous arguments and evidence on this point.

7. The total fee being sought by Cohen Milstein in this supplemental memorandum is \$36,933.75. The detail for these fees, as mentioned previously, is provided in Exhibit A. The total of fees and costs requested by this supplemental memorandum is \$49,117.44 for Cohen Milstein, after applying the exclusions and reductions described above.

8. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, this 9th day of May, 2013.

Dated: May 9, 2013

/s/ Manuel J. Dominguez
Manuel J. Dominguez
COHEN MILSTEIN SELLERS & TOLL PLLC
2925 PGA Blvd., Suite 200
Palm Beach Gardens, FL 33410
Tel: (561) 833-6575
jdominguez@cohenmilstein.com

Exhibit A

Landwehr v. AOL, Inc.
11-cv-1014 (E.D. Va.)
TIME REPORT - INCLUDED TIME

FIRM NAME: Cohen Milstein Sellers & Toll PLLC

REPORTING PERIOD: January 1, 2013 through May 7, 2013

NAME	STATUS	Cumulative Hours	2012 Rate	Original Lodestar	10% Reduction	Final Reduced Lodestar
Manuel John Dominguez	P	32.50	\$610.00	\$19,825.00	\$1,982.50	\$17,842.50
Benjamin D. Brown	P	9.00	\$600.00	\$5,400.00	\$540.00	\$4,860.00
Jeffrey B. Dubner	A	41.75	\$350.00	\$14,612.50	\$1,461.25	\$13,151.25
Ariel Wentworth	PL	5.00	\$240.00	\$1,200.00	\$120.00	\$1,080.00
TOTALS		88.25		\$41,037.50	\$4,103.75	\$36,933.75

Landwehr v. AOL, Inc., No. 11-cv-1014 (E.D. Va.)
Cohen Milstein Sellers & Toll PLLC
Included Time: January 1, 2013 through May 7, 2013

Date	Timekeeper	Hours	Lodestar	Narrative
01/03/2013	Dominguez, Manuel	2.50	1,525.00	Prepare documents for AOL fee submission, reviewed time for entry into submission researched info on affidavit and time submission. Conference with expert on status, reviewed letter from expert discussed with BB and DH, email to BB and DH on same issues
01/07/2013	Dubner, Jeffrey	0.50	175.00	Edited fee petition
01/08/2013	Dominguez, Manuel	3.75	2,287.50	read case law on fee affidavit, consulted with Jeff D re: affidavit, reviewed factual record and drafted affidavit. Conference with expert on time records and issues in litigation. Conference with cocounsel re: fee petition and information they need to provide for the petition.
01/09/2013	Brown, Benjamin, D.	1.75	1,050.00	Review and revise affidavit for brief regarding fees and expenses; correspondence regarding same; revise brief.
01/09/2013	Dominguez, Manuel	3.25	1,982.50	Conference with expert re: litigation, court issues, and time entries. Conference with Jeff D., expert, fee petition law, and information to be gathered. Made edits to affidavit, Conference with A Wentworth re: on information for affidavit and information that had been provided. Reviewed and edited fee application, reviewed file and billing records.
01/09/2013	Dubner, Jeffrey	1.00	350.00	Edit BDB declaration
01/09/2013	Dubner, Jeffrey	4.25	1,487.50	Edit fee petition & discuss w/ MJD, BDB, Phil Harvey
01/10/2013	Brown, Benjamin, D.	1.25	750.00	Revise reply brief on attorneys fees; correspondence regarding same.
01/10/2013	Dominguez, Manuel	2.25	1,372.50	Reviewed and edited motion for attorney fees conference with Jeff D to discuss edits and questions on brief. Conference with BB on same issues, reviewed and edited affidavit in support, reviewed file and law to prepare affidavit and brief.
01/10/2013	Dubner, Jeffrey	6.50	2,275.00	Edit and discuss fee petition. Compile declarations and exhibits.
01/11/2013	Dominguez, Manuel	4.25	2,592.50	Reviewed sheets for affidavit, conference with AW on preparing exhibits, reviewed and edited exhibits, Conference with expert, reviewed and edited final affidavit including exhibits, Conference with Jeff on affidavit and fee motion. Made edits to fee motion, reviewed file and read case law on fee issues.
01/11/2013	Dubner, Jeffrey	5.50	1,925.00	Finalize and file brief & declarations
01/11/2013	Wentworth, Ariel	5.00	1,200.00	fee petition brief, file same
01/25/2013	Brown, Benjamin, D.	0.75	450.00	Review AOL opposition to motion for fees; correspondence and calls regarding strategy for reply brief.
01/25/2013	Dubner, Jeffrey	2.00	700.00	Read AOL opposition and outlined response. Corresponded w/ BDB, MJD, J Bourne, D Hedlund
01/26/2013	Dominguez, Manuel	1.75	1,067.50	Reviewed AOL response and outlined topics to address, responded and replied to Emails on questions concerning AOL memo in opposition to fee petition.
01/26/2013	Dubner, Jeffrey	5.75	2,012.50	Drafted reply brief
01/28/2013	Dominguez, Manuel	1.50	915.00	reviewed and made edits to reply brief, email exchange with Jeff and Joe on reply brief. Conference with Expert re: memo in opp and reply brief
01/30/2013	Dominguez, Manuel	1.25	762.50	Reviewed and edited brief in reply and in support of attorney fees, reviewed files.
01/30/2013	Dominguez, Manuel	1.50	915.00	Reviewed and edited reply brief, reviewed case law, and reviewed Ramikisson litigation filings, conference with NO. email to to Jeff and Joe on edits to brief, reviewed email from Dan H on same issue
01/31/2013	Dominguez, Manuel	0.50	305.00	Edits to brief and email exchange with Jeff D on same.
01/31/2013	Dubner, Jeffrey	8.50	2,975.00	Edited reply brief

02/01/2013	Brown, Benjamin, D.	1.25	750.00	Case correspondence; review and revise brief or attorney's files; call regarding same.
02/01/2013	Dubner, Jeffrey	4.00	1,400.00	Finalize and file AOL reply
02/06/2013	Dominguez, Manuel	1.75	1,067.50	Reviewed briefing, case law, and conference with Jeff Dubner, conference with expert, conference with court.
02/07/2013	Dominguez, Manuel	2.00	1,220.00	Travel to Washington DC for fee hearing.
02/07/2013	Dominguez, Manuel	3.25	1,982.50	Prepared for fee hearing, reviewed all pleadings, read cases cited by defendants and their brief, some of the case law cited in our briefing prepared an outline for argument, conference with Jeff D on briefing and arguments to defendants
02/07/2013	Dubner, Jeffrey	2.50	875.00	fee hearing prep
02/08/2013	Dominguez, Manuel	1.50	915.00	Prepared for hearing; reviewed filings and finished up oral argument outline, conference with Jeff D. on issues presented by defendants.
02/08/2013	Dominguez, Manuel	0.50	305.00	Conference call with opposing counsel re: inability of opposing counsel to attend hearing, call to opposing counsel re: calling clerk, call to clerk. Call to opposing counsel agreeing to meet at court house to inform the judge of the situation.
02/08/2013	Dominguez, Manuel	0.50	305.00	travel to court and back to office
02/08/2013	Dominguez, Manuel	0.50	305.00	Appeared at court was not called, conference with clerks, conference with opposing counsel
02/26/2013	Brown, Benjamin, D.	2.00	1,200.00	Preparation for attorneys fees hearing.
02/26/2013	Dubner, Jeffrey	0.50	175.00	Prep BDB for fe hearing
02/28/2013	Brown, Benjamin, D.	2.00	1,200.00	Preparation for oral argument regarding fees.
05/06/2013	Dubner, Jeffrey	0.75	262.50	Discuss fees on fees motion & motion for reconsideration w/ MJD; correspondence w/ BDB, D Hedlund, J Bourne

TOTAL 88.25 41,037.50

Exhibit B

Landwehr v. AOL, Inc.
11-cv-1014 (E.D. Va.)
EXPENSE REPORT &
SUMMARY OF FEES AND EXPENSES

FIRM NAME: Cohen Milstein Sellers & Toll PLLC

REPORTING PERIOD: January 1, 2013 through May 7, 2013

DESCRIPTION	CUMULATIVE TOTAL
Commercial Copies	\$ -
Internal Reproduction / Copies	\$ 0.30
Court Fees (Filing costs, etc.)	\$ 150.00
Court Reporters / Transcripts	\$ -
Computer Research / Document Database	\$ 2,280.96
Telephone/Fax/E-mail	\$ 6.51
Postage/Express Delivery/Messenger	\$ 55.49
Professional Fees (expert, investigator, accountant, etc.)	\$ 8,748.25
Witness/Service Fees	\$ -
Travel (Air Transportation, Ground Travel, Meals, Lodging, etc.)	\$ 942.18
Clerical Overtime	\$ -
Miscellaneous/Other	\$ -
TOTAL EXPENSES	\$ 12,183.69